

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION**

CIVIL NO. 2:01CV19

UNITED STATES <i>ex rel.</i>, KAREN)	
T. WILSON,)	
)	
Plaintiffs,)	
)	
Vs.)	<u>ORDER</u>
)	
GRAHAM COUNTY SOIL & WATER)	
CONSERVATION DISTRICT;)	
GRAHAM COUNTY; CHEROKEE)	
COUNTY SOIL & WATER)	
CONSERVATION DISTRICT;)	
RICHARD GREENE; WILLIAM)	
TIMPSON; KEITH ORR; RAYMOND)	
WILLIAMS; DALE WIGGINS;)	
GERALD PHILLIPS; ALLEN DEHART;)	
LLOYD MILLSAPS; JERRY WILLIAMS;)	
BILLY BROWN; LYNN CODY; BILL)	
TIPTON; C. B. NEWTON; and)	
EDDIE WOOD,)	
)	
Defendants.)	
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THIS MATTER is before the Court *sua sponte* for clarification from the parties as to the claims and parties remaining in the action.

By Order entered January 13, 2006, the undersigned attempted to delineate the remaining parties and claims after receipt of the remand from

the United States Fourth Circuit Court of Appeals. Subsequently, the Court received a telephone call to its chambers from certain Defendants to ascertain whether they remain in the action. As a result, the Court reviewed its earlier decisions in an attempt to clarify the matter.

The Second Amended Complaint names as Defendants the following entities and/or individuals: (1) Graham County Soil & Water Conservation District (Graham District); (2) Graham County; (3) Cherokee County Soil & Water Conservation District (Cherokee District); (4) Richard Greene; (5) William Timpson; (6) Keith Orr; (7) Gerald Phillips; (8) Allen Dehart; (9) Lloyd Millsaps; (10) Jerry Williams; (11) Billy Brown; (12) Dale Wiggins; (13) Raymond Williams; (14) Lynn Cody; (15) Bill Tipton; (16) C.B. Newton; and (17) Eddie Wood. The factual allegations portion of the complaint makes specific factual allegations as to Defendants Graham District, Graham County, Orr, Phillips, Dehart, Greene, Timpson, Brown, Cherokee District¹, and Jerry Williams. One portion of the complaint alleges that the Graham County Finance Officer wrote a letter to Raymond Williams, Lynn Cody and Dale Wiggins explaining that she had issued a check to Orr

¹The complaint also makes allegations against Cherokee County but that entity is not named as a defendant.

against her better judgment and “under duress.” However, no allegations of wrongdoing on their parts are alleged. There also are no specific factual allegations as to Defendants Raymond Williams, Lynn Cody, Dale Wiggins, Lloyd Millsaps, Lynn Cody, Bill Tipton, C.B. Newton or Eddie Woods.

By Order entered September 19, 2002, the undersigned denied in part the motions to dismiss of several Defendants and certified for immediate appeal one discrete issue. ***Wilson v. Graham County Soil & Water Conservation Dist.*, 224 F.Supp.2d 1042 (W.D.N.C. 2002)**. The United States Supreme Court ultimately agreed with this Court as to that issue and remanded the case to the Fourth Circuit with instructions for a further remand to this Court. ***Graham County Soil & Water Conservation Dist. v. United States, ex rel. Wilson*, 125 S. Ct. 823 (2005)**. In an attempt to place the case in a procedural posture for further prosecution, the undersigned issued an order on January 13, 2006, delineating the remaining claims and parties. Unfortunately, due to an incomplete statement in the September 2002 decision on which the Court relied, the January 2006 Order is also incomplete. It is the purpose of this Order to clarify any inaccuracies.

IT IS, THEREFORE, ORDERED that on or before **APRIL 18, 2006**, the parties shall advise the Court by written filing whether they agree to the following statement of parties and issues:

The Defendants which remain in the action are as follows: (1) Graham County Soil & Water Conservation District; (2) Graham County; (3) Cherokee County Soil & Water Conservation District; (4) Richard Greene; (5) William Timpson; (6) Keith Orr; (7) Gerald Phillips; (8) Allen Dehart; (9) Lloyd Millsaps; (10) Jerry Williams; (11) Billy Brown; (12) Dale Wiggins; (13) Raymond Williams; (14) Lynn Cody; (15) Bill Tipton; (16) C.B. Newton; and (17) Eddie Wood.

As to Defendants Graham County Soil & Water Conservation District; Graham County; Cherokee County Soil & Water Conservation District; Tipton, Wood, Newton, Phillips, Dehart, Millsaps, Raymond Williams, Wiggins and Cody, the claims for litigation in this Court pursuant to the False Claims Act are limited to the allegations of the Second Amended Complaint concerning the Federal Emergency Watershed Protection Program and the Farm Services Program as alleged in Sections A and B of the Complaint. The claims against Defendants Newton, Tipton and Wood

in their individual capacities have been dismissed, leaving only claims in their official capacities.

The second amended complaint does not make factual allegations as to the following Defendants: (1) Raymond Williams; (2) Lynn Cody; (3) Dale Wiggins; (4) Lloyd Millsaps; (5) Lynn Cody; (6) Bill Tipton; (7) C.B. Newton; and (8) Eddie Woods. The Plaintiff shall advise if these individuals should remain as named Defendants.

Signed: March 31, 2006

A handwritten signature in black ink, appearing to read "Lacy H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

